

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2727

Honorable Members  
Twenty-Third Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2727, entitled "A Bill for an Act Relating to Neurotrauma."

The purpose of this bill is to require the Neurotrauma Special Fund, established by section 321H-4, Hawaii Revised Statutes, to be used to pay for services to assist individuals with neurotraumatic injuries, in addition to its existing purposes of education, access assistance, and creation of a neurotrauma registry. The bill also requires the Department of Human Services to apply by December 31, 2007, to the Centers for Medicare and Medicaid Services for a medicaid home and community-based waiver for traumatic brain injuries ("TBI").

This bill is objectionable because, first, the limited amount of moneys currently in the fund (approximately \$1,000,000), combined with expected deposits into the fund, are not sufficient to provide the direct services listed in this bill to the estimated number of persons who might need services per year in Hawaii. Each year there are approximately 1,500 individuals hospitalized in Hawaii with TBI. A survivor of TBI typically faces five to ten years of intensive treatment, with estimated lifetime costs exceeding \$4,000,000 per survivor. A mandate to provide similar services to clients of the Developmental Disabilities Division costs the State \$38,000 per client per year. Applying those figures, the estimated annual cost to the State to provide these direct services to all individuals with TBI would exceed \$57,000,000.

Second, the Departments of Human Services and of Health do not have the detailed data necessary to determine the identification and needs of target populations; which services to include in the waiver that will provide cognitive therapy, personal assistance, respite care, and day health programs as mandated by the bill; the number of people to be served; the availability of service providers in the community; or differentiation among varying levels of TBI. More time is needed to collect and analyze this data, because without it, the departments cannot meaningfully develop and select the services to be included in a TBI waiver application.

Third, while the amendments do not direct the State how to apportion the moneys in the Neurotrauma Special Fund among the purposes specified in the bill, they do add a mandate that moneys in the fund "shall be used for the purpose of funding and contracting for services . . . that assist individuals with neurotraumatic injuries, including but not limited to cognitive therapy, personal assistance, respite care, and day health programs." Because this mandate is estimated to cost much more than the total amount of money available in the Neurotrauma Special Fund, this bill may subject the State to adverse legal action and liability for failure to provide direct services to individuals with TBI.

Fourth, the moneys in the Neurotrauma Special Fund are designated to assist individuals with a spectrum of neurotraumatic injuries, not just traumatic brain injuries. However, this measure intends to use most of the funds only for services to the Medicaid-eligible traumatic brain injury waiver clients. The potential adverse impact of denying services to other neurotrauma patients is inappropriate and unfortunate.

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For the foregoing reasons, I am returning Senate Bill  
No. 2727 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE  
Governor of Hawaii